

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

V.

NATIONAL LABOR RELATIONS BOARD, *et al.*,

Defendants.

Civil Case No. 6:23-cv-00553-JCB

**[PROPOSED] JOINT STIPULATION AS TO STANDING AND
APPROPRIATE USE OF DECLARATIONS**

Defendants National Labor Relations Board, *et al.* (collectively, “the Board”) and Plaintiffs Chamber of Commerce of the United States of America, *et al.* (collectively, “Plaintiffs”) submit the following joint stipulation for the Court’s approval. This stipulation clarifies the purpose of declarations attached to Plaintiffs’ Motion for Summary Judgment [see ECF No. 10, Attachments 5-13] (“Plaintiffs’ Declarations”) and avoids the Board filing a motion to strike them from the record. The parties stipulate to the following:

The parties agree that Plaintiffs' Declarations are filed for the purpose of establishing Plaintiffs' standing, which Defendants do not plan to dispute, and should not be considered for the resolution of the merits.

Accordingly, the parties agree that the Court should not rely on the citations to Plaintiffs' Declarations found on page 36 of Plaintiffs' summary judgment motion (ECF No. 10), since

Plaintiffs' Declarations are not part of the administrative record. The table below provides replacement citations to Plaintiffs' comments to the Agency, which are appropriately considered as part of the administrative record:

Brief citation	Replacement citation	Location
IFA Decl. ¶ 9	IFA Comments at 7-8, 11-13, 35-39	Exhibit C
RLC Decl. ¶ 17	RLC and NRA Comments at 6, 24-28	https://www.regulations.gov/comment/NLRB-2022-0001-10404
AHLA Decl. ¶ 13	AHLA Comments at 7-8	https://www.regulations.gov/comment/NLRB-2022-0001-10576
NRF Decl. ¶ 9	NRF Comments at 3-4	https://www.regulations.gov/comment/NLRB-2022-0001-11418
ABC Decl. ¶¶ 8-9	ABC Comments at 4-6, 8	https://www.regulations.gov/comment/NLRB-2022-0001-11233
AGC Decl. ¶ 8	AGC Comments at 3-4	https://www.regulations.gov/comment/NLRB-2022-0001-11415

At the Court's request, Plaintiffs will submit a modified summary judgment brief with the above replacement citations (which may slightly affect the brief's pagination). The parties will maintain the existing briefing schedule.

Respectfully submitted,

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Business; and Texas Restaurant Association*

CERTIFICATE OF SERVICE

I certify that on December 12, 2023, I filed the foregoing document, Joint Proposed Stipulation, with this Court using the CM/ECF filing system, and a copy is being served on the ECF Filers electronically by the Notice of Docket activity.

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CERTIFICATE OF CONFERENCE

Pursuant to the meet and confer requirement in Local Rule CV-7(h), the undersigned certifies that on December 1, 2023, the undersigned, and attorneys Tyler Wiese and Shawnnell Barnett, attended a video conference call with Plaintiff's counsel, Pratik Shah, James Tysse, James Crowley, and Margaret O. Rusconi. Subsequent to this video conference, the parties exchanged emails and reached agreement regarding the joint proposed briefing schedule.

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